

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

TOKUSHIGE et al

Serial No. 09/986,059

Filed: November 7, 2001

For: Semiconductor Device and Fabrication Process Therefor



Atty. Ref.: 900-406

Group: 2814

Examiner: Pham, H.

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TECHNOLOGY CENTER 2800

#5 Election

M. Brunson

5/23/03

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

ELECTION UNDER 35 USC §121

In response to the Office Action dated November 6, 2002 holding the subject matter of claims 16 to be non-obvious and patentably distinct from that of claims 1-15, Applicant(s) hereby elect the invention of Group I, (upon which claim 16 is readable) for further substantive examination. In a telephone conversation with the undersigned on December 2, 2002, the Examiner indicated that if claim 16 was elected, no species election is necessary.

This election is made without traverse. However, since a restriction requirement is never proper unless the restricted group of claims is patentably distinct (i.e., inter alia, non-obvious under 35 USC §103) from the elected group of claims, the Examiner is requested to insure that such patentable distinctness is present before proceeding to make the requirement final.

It is respectfully requested that the non-elected claims be retained for use with a possible divisional application.

Respectfully submitted,
NIXON & VANDERHYE P.C.

December 4, 2002

By: _____

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